



4164-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2019-D-3324]

#### **Reconditioning of Fish and Fishery Products by Segregation: Guidance for Industry; Draft Guidance: Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing the availability of a draft guidance for industry entitled “Reconditioning of Fish and Fishery Products by Segregation.” The draft guidance, when finalized, will provide industry with an explanation of two potential approaches to recondition fish and fishery products by effectively segregating adulterated portions of an article from portions not containing the adulterant to ensure that only safe and wholesome product reaches consumers.

**DATES:** Submit either electronic or written comments on the draft guidance by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** to ensure that we consider your comment on the draft guidance before we begin work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

#### *Electronic Submissions*

Submit electronic comments in the following way:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including

attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

#### *Written/Paper Submissions*

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

*Instructions:* All submissions received must include the Docket No. FDA-2019-D-3324 for “Reconditioning of Fish and Fishery Products by Segregation.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly

viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions**--To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to <http://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the

prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Seafood Safety, Office of Food Safety,, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the SUPPLEMENTARY INFORMATION section for electronic access to the draft guidance.

**FOR FURTHER INFORMATION CONTACT:** Steven Bloodgood, Division of Seafood Safety, Office of Food Safety, Center for Food Safety and Applied Nutrition (HFS-325), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, (240) 402-5316.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

We are announcing the availability of a draft guidance for industry entitled “Reconditioning of Fish and Fishery Products by Segregation.” We are issuing the draft guidance consistent with our good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of the FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternate approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

The draft guidance is intended to help owners of fish and fishery products, or their representatives, interested in bringing adulterated products into compliance with the Federal

Food, Drug, and Cosmetic Act by means of segregating non-violative product from adulterated product. Specifically, this document provides guidance on:

- Segregation based on a production-related rationale supported by production records or information identifying the cause of the adulteration along with sampling and testing to confirm that the segregation was successful; or
- segregation based on the results of statistically significant sampling and testing.

## II. Electronic Access

Persons with access to the internet may obtain the draft guidance at either <https://www.fda.gov/RegulatoryInformation/Guidances/default.htm> or <https://www.regulations.gov>. Use the FDA website listed in the previous sentence to find the most current version of the guidance.

## III. Paperwork Reduction Act of 1995

This draft guidance also refers to previously approved collections of information found in FDA regulations. The collections of information in 21 CFR 1.94(b) and 21 CFR 1.95(a) and (b) using Form FDA 766 have been approved under OMB control number 0910-0025.

Dated: September 9, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

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